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17. (Amended) A non-killing cartridge to be fired with a firearm and packed in a shell, comprising:

a plurality of cloth shot bags connected to each other; and

metal shots provided in each of the plurality of cloth shot bags, wherein the cloth of the plurality of cloth shot bags is treated with silicone, wherein said plurality of cloth shot bags are connected by a linear banded strip, and wherein said plurality of cloth shot bags are arranged on the linear banded strip at regular intervals.

#### REMARKS

Favorable reconsideration of this application, in view of the following comments and as presently amended, is respectfully requested.

Claims 6-17 are pending in this application. Claims 6, 8, and 10 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. patent 4,190,476 to Flatau et al. (herein "Flatau '476") and U.S. patent 3,074,344 to Devaux. Claims 6, 8, 10, 12, 14, and 16 were rejected under 35 U.S.C. § 103(a) as unpatentable over U.S. patent 5,655,777 to Neading et al. (herein "Neading"), U.S. patent 6,302,028 to Guillot-Ulmann et al. (herein "Guillot-Ulmann") and U.S. patent 4,154,012 to Miller et al. Claims 7, 9, 11, 13, 15, and 17 were rejected under 35 U.S.C. § 103(a) as unpatentable over Neading, Guillot-Ulmann, and Miller as applied to Claim 6, and further in view of U.S. patent 4,098,193 to Schroeder.

Addressing now the rejection of Claims 6, 8, and 10 under 35 U.S.C. § 103(a) as unpatentable over Flatau '476 and Devaux, that rejection is traversed by the present response.

Claim 6 is directed to a non-killing cartridge to be fired with a firearm and packed in a shell. The cartridge includes a plurality of cloth shot bags connected to each other. Further,

metal shots are provided in each of the plurality of cloth shot bags. With such a structure in the claimed invention a cartridge that can provide an appropriate force when discharged from a firearm, but which can still be non-lethal, can be realized.

With reference to Figure 1 in the present specification as a non-limiting example, the non-killing cartridge includes a plurality of cloth shot bags 2 and 3 connected to each other. Further, each of the plurality of cloth shot bags 2, 3 is filled with metal shots. Figure 2 shows a further embodiment in which a plurality of cloth shot bags 5 filled with metal shots are connected by a banded strip 4. Figures 3-5 show further embodiments of the present invention.

As recognized in the Office Action, Flatau '476 is directed to a non-lethal projectile. The outstanding rejection states that Flatau '476 discloses "a non-lethal projectile comprising a plurality of payload bags (references 28 and 38) connected to each other (reference 21 and 39) and a suitable payload (column 4, lines 27-33) in each of the plurality of shot bags".<sup>2</sup>

However, that basis for the outstanding rejection appears to misinterpret the teachings in Flatau '476.

First, elements 28 and 38 in Flatau '476 are clearly not "*cloth shot bags* connected to each other" (emphasis added). Flatau '476 notes that element 38 is a cavity holding a riot control agent.<sup>3</sup> Thus it is clear that the elements 28 and 38 in Flatau '476 are not "cloth shot bags connected to each other". Further, the elements 21 and 39 in Flatau '476 are not connections between such bags as they merely provide partition elements.

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<sup>2</sup>Office Action of August 27, 2002, page 2, lines 2-5 of prenumbered paragraph 2.

<sup>3</sup>Flatau '476 at column 3, lines 63-64.

It is also noted that Flatau '476 does not teach, and could not even be modified to include, "metal shots provided in each of the plurality of cloth shot bags".

In fact, Flatau '476 is directed to making the projectile with thin wall sections that are pre-weakened so that they can rupture upon impact.<sup>4</sup> Thus, Flatau '476 is not even directed to a similar type of device as that in the claims in which metal shots are provided inside each of a plurality of cloth shot bags.

Further, Flatau '476 could not be modified to meet the claim limitations as that would destroy the entire objective of the device of Flatau '476. Flatau '476 further discloses the device therein is designed so that the riot control payload can escape upon impact.<sup>5</sup> Clearly, such a device of Flatau '476 would not operate if metal shots were provided even in the cavities 28, 38.

Further, the teachings in Devaux of a shotgun shell including metal shots firstly has no relevance to the teachings of Flatau '476, and secondly cannot overcome the deficiencies of Flatau '476.

Devaux also does not teach or suggest a plurality of "*cloth shot bags* connected to each other" (emphasis added). Therefore, Devaux cannot overcome the deficiencies of Flatau '476 with respect to that feature. Further, as noted above, Flatau '476 could not properly operate if modified to include metal shots, and thus the teachings in Devaux are not even properly applicable to the teachings in Flatau '476.

In such ways, each of the pending claims distinguishes over the combination of teachings of Flatau '476 and Devaux.

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<sup>4</sup>Flatau '476 at column 3, lines 28-30.

<sup>5</sup>Flatau '476 at column 5, line 68, through column 6, line 4.

Addressing now the rejection of Claims 6, 8, 10, 12, 14, and 16 under 35 U.S.C. § 103(a) as unpatentable over Neading, Guillot-Ulmann, and Miller, and the further rejection of Claims 7, 9, 11, 13, 15, and 17 further in view of Schroeder, those rejections are also traversed by the present response.

It is first noted that the outstanding rejection appears to misinterpret the teachings in Neading. Neading is directed to a toy for a throwing game, and thereby discloses a spinnable throwing object.<sup>6</sup> Such a device as in Neading directed to a toy differs significantly from the claimed invention directed to a "non-killing cartridge".

Also, the outstanding rejection appears to misinterpret the teachings in Neading as the outstanding Office Action states "Neading et al., Guillot-Ulmann et al. and Miller are analogous art because they are from similar problem solving areas: non-lethal projectiles".<sup>7</sup>

Clearly that basis for the outstanding rejection indicating that Neading, Guillot-Ulmann and Miller are all directed to the same area of non-lethal projectiles is improper as it misinterprets the teachings in Neading. Neading is clearly *not directed* to a non-lethal projectile, but instead is directed to a toy.

Given the above-noted deficiency in Neading, it is also clear that the teachings in Neading, Guillot-Ulmann, and Miller are not directed to analogous art, and in fact are directed to unrelated art.

Moreover, for even the unrelated teachings in Neading to be modified to meet the claim limitations it would have had to have been suggested to one of ordinary skill in the art to modify Neading to utilize metal shots in each of cloth shot bags. It clearly could not have

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<sup>6</sup>Neading at column 1, lines 10-12.

<sup>7</sup>Office Action of August 27, 2002, page 3, lines 17-19 of prenumbered paragraph 3.

been suggested to one of ordinary skill in the art to utilize metal shots in Neading as the use of metal shot would not enhance the toy throwing object of Neading. Also, clearly one of ordinary skill in the art would not look to the teachings in Guillot-Ulmann and Miller, which are directed to non-lethal projectiles, to take any teachings with which the toy of Neading could be modified.

Moreover, the teachings in Schroeder are equally-inapplicable to the teachings in Neading as Schroeder is directed to wear and corrosion-reducing additives for gun propellants, which would clearly have no relation whatsoever to a toy throwing object as in Neading.

In such ways, each of the pending claims further distinguishes over the rejections based on Neading in view of Guillot-Ulmann and Miller, and further in view of Schroeder.

The present response also rewrites Claims 16 and 17 in independent form and clarifies features recited therein. Those claims are now more clearly directed to the embodiments in Figures 2, 4, and 5 in the present specification in which the plurality of cloth shot bags 5 are connected by a linear banded strip 4, as shown in Figure 2. Further, the plurality of cloth shot bags are arranged in the linear banded strip 4 at regular intervals, as noted in the present specification at page 2, last paragraph. Such features as clarified in Claims 16 and 17 even further distinguish over the applied art as none of the applied art teaches or suggests connecting a plurality of cloth shot bags by a linear banded strip at regular intervals. Thus, Claims 16 and 17 even further distinguish over the applied art.

As no other issues are pending in this application, it is respectfully submitted that the present application is now in condition for allowance, and it is hereby respectfully requested that this case be passed to issue.

Respectfully submitted,

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IN THE CLAIMS

16. (Amended) A non-killing cartridge [according to claim 7,] to be fired with a firearm and packed in a shell, comprising:  
a plurality of cloth shot bags connected to each other; and  
metal shots provided in each of the plurality of cloth shot bags, wherein said plurality of cloth shot bags are connected by a linear banded strip, and wherein said plurality of cloth shot bags are arranged on the linear banded strip at regular intervals.

17. (Amended) A non-killing cartridge [according to claim 7,] to be fired with a firearm and packed in a shell, comprising:  
a plurality of cloth shot bags connected to each other; and  
metal shots provided in each of the plurality of cloth shot bags, wherein the cloth of the plurality of cloth shot bags is treated with silicone, wherein said plurality of cloth shot bags are connected by a linear banded strip, and wherein said plurality of cloth shot bags are arranged on the linear banded strip at regular intervals.